

## AN ACT

ENTITLED, An Act to increase certain fees charged by the Office of the Secretary of State.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 1-8-10 be amended to read as follows:

1-8-10. The secretary of state shall charge the following fees for services performed in the Office of the Secretary of State and shall collect the fees in advance:

- (1) For making a copy or transcript of any record, instrument, or paper on file in the office, one dollar per page;
- (2) For filing and safekeeping of any instrument or paper required by law to be filed only, ten dollars; except the oath of office of members of the Legislature and legislative officers, employees and governmental officers, employees and agencies, for which there is no fee;
- (3) For each commission, requisition, passport, or other document, signed by the Governor and attested by the secretary of state, under the great seal of the state, except commissions issued for executive appointment and extraditions, and making the proper record for the same, five dollars;
- (4) For filing application, bond, and issuing commission of notary public, thirty dollars;
- (5) For official certificate, attestation, and impression of the great seal, five dollars;
- (6) For filing or recording any other instrument or document, ten dollars; and
- (7) For a certified copy of any document, instrument, or paper on file in the office, one dollar per page and fifteen dollars for the certificate and affixing the seal.

However, there is no fee to any state government agency pursuant to subdivision (1).

Section 2. That § 1-8-12 be amended to read as follows:

1-8-12. The secretary of state shall charge a fee of fifty dollars for any expedited service. Expedited service is defined as completion sooner than the normal course of business upon request.

Section 3. That § 2-12-3 be amended to read as follows:

2-12-3. Each lobbyist who registers and is employed pursuant to this chapter shall pay to the secretary of state an annual registration fee of forty dollars for each employer represented by the lobbyist.

Section 4. That § 2-12-11 be amended to read as follows:

2-12-11. On or before July first of each year, each registered lobbyist and each employer of a registered lobbyist whose name appears in the directory in that year shall submit to the secretary of state a complete and detailed report of all costs incurred for the purpose of influencing legislation. However, the personal expenses of the lobbyist spent upon the lobbyist's own meals, travel, lodging, phone calls or other necessary personal needs while in attendance at the legislative session need not be reported. The reports shall be personally sworn to by the person making the report in the presence of a notary public. The secretary of state shall prescribe concise and simple forms for reporting costs and expenses for lobbyists and the employers of lobbyists. The completed reports shall be open to public inspection. The terms, costs, and expenses, as used in this section do not mean the compensation paid by the employer to the lobbyist.

Any lobbyist expense report filed pursuant to this section is exempt from the ten dollar filing fee prescribed in subdivision 1-8-10(2).

Section 5. That § 15-7-7 be amended to read as follows:

15-7-7. Service of process as authorized by § 15-7-6 shall be made by serving a copy thereof upon the secretary of state, or by filing the copy in the office of the secretary of state, together with payment of a fee of fifteen dollars. The service shall be sufficient service upon the absent resident or the nonresident or the resident's or nonresident's personal representative if the notice of the service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at the defendant's last-known address and that the plaintiff's affidavit of compliance with the

provisions of this section is attached to the summons. The secretary of state shall keep a record of any process so served. The record shall show the day and hour of the service. The fee of fifteen dollars paid by the plaintiff to the secretary of state at the time of service of the process shall be recovered as taxable costs if the plaintiff prevails in the suit.

Section 6. That § 18-1-1 be amended to read as follows:

18-1-1. The secretary of state shall appoint notaries public, who have residence in this state as defined in § 12-1-4. A notary public shall hold office for six years unless sooner removed by the secretary of state. An applicant to become a notary public shall complete an application form as prescribed by the secretary of state pursuant to chapter 1-26. The applicant shall submit a fee of thirty dollars. The application shall include the applicant's name, street, city, state, zip code, county, and date of birth. The applicant shall apply in the same name as that which will appear as the seal imprint. Each notary may, anywhere in this state, administer oaths and perform all other duties required by law. The secretary of state may not appoint as a notary public any person who has been convicted of a felony. The secretary of state may also appoint an applicant as a notary public if the applicant resides in a county bordering South Dakota and the applicant's place of work or business is within the State of South Dakota.

Section 7. That § 37-6-5 be amended to read as follows:

37-6-5. Subject to the limitations set forth in §§ 37-6-6 to 37-6-11, inclusive, any person who adopts and uses a mark in this state may file in the Office of the Secretary of State, on a form to be furnished by the secretary of state, an application for registration of that mark setting forth the following information:

- (1) The name and business address of the person applying for the registration; and, if a corporation, the state of incorporation;
- (2) The goods or services in connection with which the mark is used and the mode or manner

in which the mark is used in connection with the goods or services and the class in which the goods fall;

- (3) The date when the mark was first used anywhere and the date when it was first used in this state by the applicant or the applicant's predecessor in business; and
- (4) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this state either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

The application shall be signed under oath by the applicant or by a member of the firm or an officer of the corporation or association applying. The application shall be accompanied by a specimen or facsimile of the mark in duplicate no larger than eight and one-half inches by eleven inches. The application for registration shall be accompanied by a filing fee of one hundred twenty-five dollars, payable to the secretary of state.

Section 8. That § 37-6-14 be amended to read as follows:

37-6-14. Registration of a mark under § 37-6-13 is effective for a term of four years from the date of registration. Upon application filed within six months prior to the expiration of the term, on a form to be furnished by the secretary of state, the registration may be renewed for a like term. A renewal fee of one hundred twenty-five dollars, payable to the secretary of state, shall accompany the application for renewal of the registration. A mark registration may be renewed for successive periods of four years in like manner.

Section 9. That § 37-6-17 be amended to read as follows:

37-6-17. A mark and its registration under § 37-6-13 is assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the secretary of state upon the payment of a fee of one hundred twenty-five

dollars payable to the secretary of state. Upon recording of the assignment, the secretary of state shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under § 37-6-13 is void as against any subsequent purchaser for valuable consideration without notice unless it is recorded with the secretary of state within three months after the date thereof or prior to the subsequent purchase.

Section 10. That § 43-27-1 be amended to read as follows:

43-27-1. The owner of any farm, ranch, or home in this state may, upon the payment of fifteen dollars to the secretary of state, have the name of the farm, ranch, or home entered and recorded in a register. The secretary of state shall keep the register and furnish the owner a certificate setting forth the name and location of the farm, ranch, or home and the name of the owner.

Section 11. That § 43-44-6 be amended to read as follows:

43-44-6. The fee of the secretary of state for filing the application and issuing certificate of registration, alteration, or cancellation shall be seventy-five dollars.

The fee for filing any assignment or other transfer of registration shall be ten dollars.

The fee for searches, certified copies, and other official acts of the secretary of state, required under the provisions of this chapter, shall be the same as provided by law for similar services except as otherwise specifically provided in this chapter.

Section 12. That § 47-1A-122 be amended to read as follows:

47-1A-122. The Office of the Secretary of State shall collect the following fees when the documents described in this section are delivered for filing:

- (1) Articles of incorporation, \$150;
- (2) Application for use of indistinguishable name, \$25;
- (3) Application for reserved name, \$25;
- (4) Notice of transfer of reserved name, \$15;

- (5) Application for registered name, \$25;
- (6) Application for renewal of registered name, \$15. A renewal application may be filed between the first day of October and the thirty-first day of December in each year and shall extend the registration for the following year;
- (7) to (9) Repealed by SL 2008, ch 275, § 27;
- (10) Articles of domestication, \$150;
- (11) Articles of charter surrender, \$150;
- (12) Articles of domestication and conversion, \$150;
- (13) Articles of entity conversion, \$150;
- (14) Amendment of articles of incorporation, \$60;
- (15) Restatement of articles of incorporation, \$60;
- (16) Articles of merger or share exchange, \$60;
- (17) Articles of dissolution, \$10;
- (18) Articles of revocation of dissolution, \$10;
- (19) Certificate of administrative dissolution, no charge;
- (20) Application for reinstatement following administrative dissolution, plus any delinquent annual report filing fees for the period prior to the reinstatement application, \$300;
- (21) Certificate of reinstatement, no charge;
- (22) Certificate of judicial dissolution, no charge;
- (23) Application for certificate of authority, \$750;
- (24) Application for amended certificate of authority, \$250;
- (25) Application for certificate of withdrawal, \$10;
- (26) Application for transfer of authority, \$25;
- (27) Certificate of revocation of authority to transact business, no charge;

- (28) Annual report, \$50;
- (29) Articles of correction, \$25;
- (30) Application for certificate of existence or authorization, \$20;
- (31) Any other document required or permitted to be filed by this chapter, \$20.

The Office of the Secretary of State shall collect a fee of thirty dollars each time process is served on the Office of the Secretary of State under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

Section 13. That § 47-14A-57 be amended to read as follows:

47-14A-57. No document required to be filed under this section is effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the secretary of state for the use of the state:

- (1) Application for reservation of name, \$50;
- (2) Application for renewal of reservation, \$50;
- (3) Notice of transfer or cancellation of reservation, \$50;
- (4) Certificate of trust, \$125;
- (5) Certificate of amendment, \$125;
- (6) Certificate of cancellation, \$125;
- (7) Certificate of merger or consolidation, \$125;
- (8) Certificate of correction, \$125;
- (9) Certificate of termination or amendment or a restated certificate, \$125; and
- (10) All other certificates filed under this chapter, \$50.

Section 14. That § 47-14B-22 be amended to read as follows:

47-14B-22. No document required to be filed under this chapter is effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the secretary

of state for the use of the state:

- (1) Upon receipt for filing of an application for registration as a foreign business trust, a certificate, or a certificate of cancellation, a fee of one hundred twenty-five dollars; and
- (2) Upon the receipt for filing of a certificate, a fee of fifty dollars.

Section 15. That § 47-28-6 be amended to read as follows:

47-28-6. The secretary of state shall charge and collect for:

- (1) Filing articles of incorporation and issuing a certificate of incorporation, thirty dollars;
- (2) Filing articles of amendment and issuing a certificate of amendment, fifteen dollars;
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifteen dollars;
- (4) Repealed by SL 2008, ch 275, § 72;
- (5) Filing articles of dissolution, five dollars;
- (6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, one hundred twenty-five dollars;
- (7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, twenty-five dollars;
- (8) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars;
- (9) Filing any other statement or report, including an annual report, of a foreign corporation, ten dollars;
- (10) Filing an annual report of a domestic nonprofit corporation under chapter 47-24, ten dollars;
- (11) Filing a petition for reinstatement and issuing a certificate of reinstatement, thirty dollars;



and

(12) Filing a notice of sale, transfer, or merger, fifteen dollars.

Section 16. That § 47-28-7 be amended to read as follows:

47-28-7. The secretary of state shall charge and collect, at the time of any service of process on the secretary of state as resident agent of a corporation, thirty dollars, which amount may be recovered as taxable costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action.

Section 17. That § 47-28-8 be amended to read as follows:

47-28-8. The secretary of state shall charge and collect for furnishing a certified copy of any document, instrument, or paper relating to a corporation, one dollar per page, and fifteen dollars for the certificate and affixing the seal thereto.

Section 18. That § 47-34A-212 be amended to read as follows:

47-34A-212. The secretary of state shall charge and collect for:

- (a) Filing the articles of organization in the case of a domestic limited liability company, a filing fee of one hundred fifty dollars. Filing the articles of organization in the case of a foreign limited liability company, a filing fee of seven hundred fifty dollars;
- (b) Deleted by SL 2004, ch 279, § 2.
- (c) A reporting fee of fifty dollars, due and payable with the filing of each annual report.

Section 19. That § 47-34A-811 be amended to read as follows:

47-34A-811. (a) A limited liability company administratively dissolved may apply to the secretary of state for reinstatement after the effective date of dissolution. The applicant shall submit with the application the appropriate filing fee. The secretary of state shall charge filing fees for any delinquent annual report and a fee for application of reinstatement in the amount of one hundred fifty dollars. The application must:

- (1) Recite the name of the company and the effective date of its administrative dissolution;
- (2) State that the ground for dissolution either did not exist or have been eliminated;
- (3) State that the company's name satisfies the requirements of § 47-34A-105; and
- (4) Contain a certificate from the appropriate state authority reciting that all taxes owed by the company have been paid.

(b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the company with a copy of the certificate.

(c) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the company may resume its business as if the administrative dissolution had never occurred.

Section 20. That § 47-34A-1206 be amended to read as follows:

47-34A-1206. The secretary of state may charge the following fees:

- (a) For amending or restating the articles of organization in the case of a domestic limited liability company, a filing fee of sixty dollars. For amending the registration in the case of a foreign limited liability company, a filing fee of seven hundred fifty dollars;
- (b) For filing articles of termination, ten dollars;
- (c) For filing articles of merger, sixty dollars;
- (d) For filing a statement of dissociation, ten dollars;
- (e) For filing an application to reserve a name, twenty-five dollars;
- (f) For issuing a certificate of existence, twenty dollars;
- (g) For filing an application for registration of name, twenty-five dollars;

- (h) For filing an annual renewal of registration, a limited liability company which has in effect a registration of its name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of fifteen dollars. A renewal application may be filed between the first day of October and the thirty-first day of December in each year and shall extend the registration for the following year;
- (i) For acting as agent for service of process the secretary of state shall charge and collect at the time of such service thirty dollars which may be recoverable as taxable costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action.

Section 21. That § 48-7-206.1 be amended to read as follows:

48-7-206.1. The provisions of § 1-8-10 notwithstanding, the fee for filing any document required under this chapter with the secretary of state is one hundred twenty-five dollars.

Section 22. That § 48-7A-1003 be amended to read as follows:

48-7A-1003. (a) A limited liability partnership, and a foreign limited liability partnership authorized to transact business in this state, shall file an annual report pursuant to §§ 59-11-24 to 59-11-26, inclusive.

(b) Repealed by SL 2008, ch 275, § 86.

(c) The secretary of state may revoke the statement of qualification of a partnership that fails to file an annual report when due or pay the required filing fee. To do so, the secretary of state shall provide the partnership at least sixty days' written notice of intent to revoke the statement. The notice must be mailed to the partnership at its chief executive office set forth in the last filed statement of qualification or annual report. The notice must specify the annual report that has not been filed, the

fee that has not been paid, and the effective date of the revocation. The revocation is not effective if the annual report is filed and the fee is paid before the effective date of the revocation.

(d) A revocation under subsection (c) only affects a partnership's status as a limited liability partnership and is not an event of dissolution of the partnership.

(e) A partnership whose statement of qualification has been revoked may apply to the secretary of state for reinstatement within two years after the effective date of the revocation. The applicant shall submit with the application the filing fee of one hundred twenty-five dollars, plus any delinquent annual reports and fees for the period prior to the reinstatement application. The application must state:

- (1) The name of the partnership and the effective date of the revocation; and
- (2) That the ground for revocation either did not exist or has been corrected.

(f) A reinstatement under subsection (e) relates back to and takes effect as of the effective date of the revocation, and the partnership's status as a limited liability partnership continues as if the revocation had never occurred.

Section 23. That § 48-7A-1208 be amended to read as follows:

48-7A-1208. The provisions of § 1-8-10 notwithstanding, the fee for filing the statements and reports provided for in the following sections with the secretary of state is as follows:

- (1) Section 48-7A-303, Statement of Authority, one hundred twenty-five dollars;
- (2) Section 48-7A-304, Statement of Denial, ten dollars;
- (3) Section 48-7A-704, Statement of Dissociation, ten dollars;
- (4) Section 48-7A-805, Statement of Dissolution, ten dollars;
- (5) Section 48-7A-907, Statement of Merger, sixty dollars;
- (6) Section 48-7A-1001, Statement of Qualification, one hundred twenty-five dollars;
- (6A) Section 48-7A-1001, Statement of Change, ten dollars;

- (7) Section 48-7A-1003, Annual Report, fifty dollars;
- (8) Section 48-7A-1001.1, Statement of Amendment, fifteen dollars;
- (9) Section 48-7A-1001.2, Statement of Cancellation, ten dollars;
- (10) Section 48-7A-1102, Statement of Foreign Qualification, one hundred twenty-five dollars;
- (11) Section 48-7A-1102.1, Statement of Amendment of Foreign Qualification, fifteen dollars;
- (12) Section 48-7A-1102.2, Statement of Cancellation, ten dollars; and
- (13) Filing any other statement, ten dollars.

Section 24. That § 57A-9-525 be amended to read as follows:

57A-9-525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in subsection (b), is the amount specified in subsection (c), if applicable, plus:

- (1) Twenty-five dollars if the record is communicated in writing and consists of one page, and five dollars for additional pages. One dollar of this fee shall be deposited into the financing statement filing fee fund;
- (2) Twenty dollars if the record is communicated by internet. One dollar of this fee shall be deposited into the financing statement filing fee fund; and
- (3) Twenty-five dollars if the record is communicated by another medium authorized by filing-office rule.

(b) Except as otherwise provided in subsection (e), the fee for filing, whether communicated in writing, electronically, or another medium authorized by filing-office rule, and indexing an initial financing statement of the following kind is the amount specified in subsection (c), if applicable, plus:

- (1) Forty dollars if the financing statement indicates that it is filed in connection with a public-finance transaction;

- (2) Forty dollars if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

(c) Except as otherwise provided in subsection (e), if a record is communicated in writing or electronically, the fee for each name more than one required to be indexed is three dollars.

(d) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is:

- (1) Twenty dollars if the request is communicated in writing; and
- (2) Ten dollars if the request is communicated by internet authorized by filing-office rule.

Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar per page.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under § 57A-9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

An Act to increase certain fees charged by the Office of the Secretary of State.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1069

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1069

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
=====

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State